

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 06-2557 JB

EDUARDO RODRIGUEZ-LOPEZ,

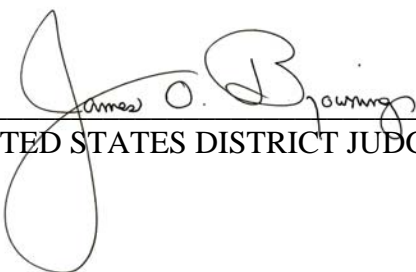
Defendant.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on the Defendant's Sentencing Memorandum, filed May 30, 2007 (Doc. 27). The Court held a sentencing hearing on September 18, 2007. The primary issue is whether the Court should sentence Defendant Eduardo Rodriguez-Lopez to substantially less than the sentence that is within the advisory sentencing guideline range. During the preparation of the Pre-Sentence Report ("PSR") and for the sentencing, facts came to light showing that the crime of false imprisonment, of which he had been convicted in California, involved his girlfriend and may not have been a crime of violence, which would disqualify him from receiving a fast-track plea offer. The United States stated that, if it had known all the facts, it would have extended a fast-track plea offer subject to the Court's approval. Rodriguez-Lopez would receive a 1-level reduction in the base offense level under the United States Attorney's Fast-Track Program and he would need only be sentenced at a level 9 rather than a level 10, as indicated in the PSR. See Transcript of Hearing (taken September 18, 2007) 3:22-25, 4:1-6 (Lopez)("Tr."). It was also made clear that, had these facts been known to the United States at the time of the plea offer, Rodriguez-Lopez would have qualified for a fast-track plea offer. See Tr.5:20-25, 6:1-5 (Backinoff). After careful consideration of the sentencing factors set forth in 18 U.S.C. § 3553(a), and after consideration of

the facts set forth at the hearing, the Court finds that the Defendant should receive a sentence equal to one with a 1-level reduction under the United States Attorney's Fast-Track Program. A lengthier sentence, such as the one that the advisory guidelines recommend for this offense and for a defendant with Rodriguez-Lopez' criminal history, is unnecessary and unwarranted, and would introduce a disparity among sentencing for similarly situated defendants. Therefore, consistent with the Court's ruling at the hearing on this motion, and for the reasons given at the time of the hearing, the Court will grant in part and deny in part Rodriguez-Lopez' request to deviate from the advisory guideline sentence. The Court will reduce the sentence to bring it in line with similarly situated defendants in the District, but will not reduce the sentence as substantially as he wishes.

**IT IS ORDERED** that the Defendant Eduardo Rodriguez-Lopez' request for the Court to deviate from the advisory guideline sentence is granted in part and denied in part. The Court will deviate downward from the guideline sentence to a sentence in line with other similarly situated defendants, but otherwise will not deviate substantially from the advisory guideline sentence.



UNITED STATES DISTRICT JUDGE

Counsel:

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